

The 26th November, 1981

No. 9(1)81-6-Lab./13116.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s. Kalra Saw Mills, Khajoori Road, Yamuna Nagar:—

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT, HARYANA, FARIDABAD.

Reference No. 504 of 1980

*between*

SHRI BABOO LAL WORKMAN AND RESPONDENT-MANAGEMENT OF M/S. KALRA SAW MILLS, KHAJOORI ROAD, YAMUNANAGAR,

Shri Rajeshwar Nath for the workman.

Shri W. C. Sharma for the management.

#### AWARD

This reference No. 504 of 1980 has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/YMN]177-80/54970, dated 27th October, 1980 under Section 10(i) (c) of the Industrial Disputes Act, 1947, existing between Shri Baboo Lal, workman and the respondent-management of M/s Kalra Saw Mills, Khajoori Road, Yamuna Nagar. The term of the reference was:—

Whether the termination of services of Shri Baboo Lal was justified and in order? If not, to what relief is he entitled?

After receiving this reference, notices were sent to the parties, parties appeared and filed their pleadings.

The case of the workman is that he worked with the respondent from last three years and drawn Rs. 250 per month. He remained on leave from 8th May, 1980 to 17th June, 1980 and when reported for duty on 18th June, 1980, the respondent refused to take the workman on duty. Action of the respondent is illegal, unjustified and workman has prayed for his reinstatement with continuity of services and full back wages.

The case of the respondent-management

according to the written statement is that the respondent offered the workman his reinstatement with continuity of services during the conciliation proceeding. So no industrial dispute existed between the parties. The respondent further stated that the workman abandoned himself from the duty from 8th May, 1980 without any intimation or leave and respondent sent a notice to the workman asking to resume the duty but received no reply and after coming from home, the workman has joined services elsewhere and unwilling to return on duty with the respondent.

On pleadings of the parties, following issues were framed:—

- (i) Whether it is a case of voluntarily abandonment of service? If so, to what effect?
- (ii) Whether the termination of services of the workman is proper, justified and in order? If so, to what effect?
- (iii) Relief.

After framing these issues, parties led their evidence. The management produced two witnesses MW-1 Shri Om Parkash partner of the respondent firm and MW-2, the other partner of the firm and produced documents Ex. M-1, a notice, dated 12th May, 1980 to the workman, Ex. M-1/1, a U.P.C. Receipt, Ex/M-2 another notice, dated 20th May, 1980 to the workman, Ex. M-2/1, a U.P.C. receipt, Ex. M-3 & M-4 copy of the attendance register for the month of May, 1980 and Ex. M-5 and M-6 copies of the payment of the wages register for the month of May and June and closed their evidence. The workman came himself as his own witness as WW-1 and closed his case.

My finding on issue No. 1 is as under:—  
Issue No. 1

Issue number one is whether the workman voluntarily abandoned his service. In his regard respondent has produced two notices Ex. M-1 and Ex. M-2 in which they have called the workman to report on duty. The letters are dated 12th May, 1980 and 20th May, 1980. The respondent witness MW-1 has stated in his statement that the workman was working with them and he went home without taking any leave or permission from the respondent from 8th May, 1980 and when he was absent, respondent sent these two notices at his home address under U.P.C. After coming from home, the workman started his work with another firm M/s O. K. Saw Mills and did not come to the respondent.

The witness MW-2 also stated the case in the same way. The workman in his cross-examination has stated that he does not want to work with the respondent. He only wants his wages for seven days which are pending with the respondent. The statement of the workman shows that he did not want the service from the respondent. He simply wants his seven days wages. He has not given any proof of statement which shown that he was not absent from duty during this period and this statement also shows that he is working somewhere else otherwise he would like to reinstate and not simple money. The respondent in his written statement has also stated that they have offered to reinstate the workman with continuity of services during the conciliation proceeding and written statement was filed before the Conciliation Officer in this respect. It shows that the respondent is very clear in his terms and the workman who simply wants his salary for seven days. It clears the intention of the workman and proved that the workman had voluntarily abandoned his services because he does not want to work with the respondent so this goes in favour of the respondent-management and against the workman.

Issue No. 2

Issue number two is as per reference. When issue No. 1 has been decided in favour of the respondent then there is no need to discuss this issue and no relief is required to the workman in these circumstances. The workman simply wants his seven days salary for which he can claim under section 33(c) (2) of the Industrial Disputes Act, 1947 and not under this reference separately. No order as to costs. This may be read an answer of this reference.

HARI SINGH KAUSHIK,

Presiding Officer,

Labour Court,

Faridabad, Haryana.

Dated the 18th October, 1981.

Endorsement No. 2996, dated the 23rd October, 1981.

Forwarded (four copies) to the Commissioner & Secretary to Govt. Haryana, Labour & Employment Department, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947 with the request that the receipt of the above-said award may please be acknowledged within week's time.

HARI SINGH KAUSHIK,

Presiding Officer,

Labour Court

Haryana, Faridabad.

No. 9(1) 81-6Lab./13320. -In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s. The Atlas Cycle Industries Ltd., Post Box No. 20, Sonapat:-

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 184 of 78

between

SHRI OM PARKASH, WORKMAN AND THE MANAGEMENT OF M/S. THE ATLAS CYCLE INDUSTRIES, LTD., POST BOX NO. 20, SONEPAT

Present : Shri Ram Sarup, for the workman.

Shri S. N. Jaggi for the management.

This reference has been referred to this court by the Hon'ble Governor,—vide his order Nt. ID/RK/62-78/33904, dated 19th July, 1978, under section 10(i) (c) of the I. D. Act for adjudication of the dispute existing between Shri Om Parkash, workman and the management of M/s. The Atlas Cycle Industries Ltd., Sonapat. The term of the reference was :—

Whether the termination of services of Shri Om Parkash, was justified and in order ? If not to what relief is he entitled ?

On the receipt of the order of reference notices as usual were sent to the parties. The parties put in their appearance on 11th August, 1978 in response to the same, filed their respective pleadings and the following issue arose out of the pleadings of the parties :-

1. Whether the workman resigned his job of his own ?
2. Whether the workman has settled the dispute fully and finally and have received the amount as per the settlement ?
3. If issue Nos. 1 and 2 are not found in favour of the management whether the termination of services of the workman was justified and in order ?

#### 4. If not to what relief is he entitled ?

The management examined Shri O. D. Sharma, Labour-cum-Conciliation Officer, Faridabad II as MW-1, Shri S. K. Gulati as MW-2 and Shri R. K. Vij examiner of questioned documents, MW-3 as well as Shri S. N. Jaggi, Legal Assistant respondent as MW-4 and closed their case. The workman examined Shri Hawa Singh, General Secretary, General Engineering Workers Union, Sonapat as WW-1 and himself as WW-2 and closed his case. I also heard the representatives of the parties and have also seen the record. I decide issuewise as under :

#### Issue No. 1 & 2 :

The management has pleaded in their written statement that the workman was charge-sheeted, *vide* No. FM 23 CS-76 136/192, dated 4th March, 1976 and was placed under suspension pending enquiry for acts of misconduct. The workman submitted his explanation and the same was found unsatisfactory and a regular enquiry was ordered. The workman admitted his guilt in the course of enquiry on 22nd July, 1976 and begged apology. He also submitted his resignation on account of certain family circumstances and requested that his resignation may be accepted in place of issuing dismissal order. The alleged resignation is Ex. M-3. The workman denied his signatures on Ex. M-3 during the course of admission and denial of the documents. The workman has nowhere mentioned anything about Ex. M-3 in his pleadings and denied his signatures on Ex. M-3. In his cross-examination the workman has given out that he is not aware whether there are or not his signatures on Ex. M-2 because the contents of the same were not read out to him. Ex. M-2 is the settlement under section 18(i) of the I.D. Act. The workman has admitted in his cross-examination that Shri S. N. Solanki, Hawa Singh and Shri O.D. Sharma were present when he signed Ex. M-1 which is the voucher, *vide* which the workman received the payment of Rs. 3032-07 paise in full and final settlement of his claims but he was not aware whether Shri Hawa Singh and Shri O. D. Sharma put their signatures on the same. About Ex. M-4 the workman replied that his signatures are in circle 'A' but he did not know as to what was written in it. Ex. M-4 is the statement given by the workman before the Enquiry Officer. The workman gave the

same reply about Ex. M-A the application for gratuity but admitted that he received Rs. 2,457 regarding his claim for gratuity, *vide* receipt Ex. M-B. WW-1 has deposed that they filed a complaint against the termination of the workman before the Labour-cum-Conciliation Officer in which there was no mention of lay off. The workman received Rs. 3,032-07 paise willingly in respect of his demand notice in full and final settlement of the claims. The settlement was arrived and converted into black and white. The signatures on the settlement were put in the Labour Office and the same was read over to the workman by Shri Solanki who also translated it into Hindi. The copy of the settlement is Ex. M-2. In his cross-examination WW-1 admitted that the workman put his signatures at point 'B' on Ex. M-2 in his presence and also on Ex. M-1 at point 'B' were his signatures and at point 'C' were the signatures of the workman, Shri O. D. Sharma put his signatures at point 'A' on Ex. M-1. He also admitted that he himself and Shri Solanki were the representatives of the workman.

The management has also proved through consistent evidence given by all the four witnesses examined on their behalf that the workman submitted his resignation Ex. M-3 and received his full and final payment, *vide* Ex. M-1 under the terms of the settlement Ex. M-2. Each one of the management witnesses has corroborated the statement of other witnesses. Even the workman's witness WW-1 has supported the case of the management and proved the settlement Ex. M-2 which incorporates that the workman submitted his resignation and the management agreed to accept the same. The signatures of Shri Om Parkash on Ex. M-3 are also proved to be his genuine signatures by the handwriting expert who appeared as MW-3, *vide* his report Ex. MW-3/1. Mere denial by the workman of his signatures on Ex. M-3 is not sufficient to disprove the allegation of the management in the absence of any supporting evidence. The cause of termination given in Ex. M-A the application of gratuity is resignation on which the workman has admitted his signatures on Ex. M-B the receipt for gratuity amount which also contain the fact of his resignation. It is, therefore, fully established that the workman resigned his services voluntarily and settled his dispute fully and finally and received the agreed amount as per the settlement accordingly decide issues 1 and 2 in favour of the management.

## Issue No. 3 &amp; 4 :

In view of my findings on issues 1 & 2 this is not a case of termination of services but a case of resignation by the workman and who have received a full and final payment under the settlement arrived at with the management. Therefore issues 3 & 4 needs no further decision. The workman is not entitled to any relief. The reference is answered and returned accordingly.

BANWARI LAL DALAL,  
Presiding Officer,

Labour Court Haryana, Rohtak.

Dated the 30th October, 1981.

Endst. No. 3823, dated the 30th October, 1981.

Forwarded (four copies), to the secretary to Government of Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the I. D. Act.

BANWARI LAL DALAL,  
Presiding Officer,  
Labour Court Haryana, Rohtak.

No. 9(1)81-6Lab.13349.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s. Auto Pins (India) Regd. Plant II, Mathura Road, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING  
OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD.

Reference Nos. 477, 479, 480, 481, 500, 502, 503  
& 504 & 505 of 1978.

## between

S/Shri Ram Subhag, Partap Singh, Gian Chand, Shyam Sunder, Ishwari Parshad, Zokaria, Jai Karau, Lal Babu Sharma and Nand Lal, workmen and the management of M/s. Auto Pins (India) Regd. Plant-II, Mathura Road, Faridabad.

## Present :—

Shri Yoginder Singh, for the workmen.

Shri R. C. Sharma, for the management.

## AWARD

By Order No. ID/FD/181/47648, dated 20th October, 1978, The Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri Ram Subhag was justified and in order ? If not, to what relief is he entitled ?

By order No. ID/FD/184-78/47660, dated 20th October, 1978, the Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri Partap Singh was justified and in order ? If not, to what relief is he entitled ?

By order No. ID/FD/178-78/47666, dated 20th October, 1978, the Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri Gian Chand was justified and in order ? If not, to what relief is he entitled ?

By order No. ID/FD/183-78/47672, dated 20th October, 1978, the Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri Shyam Sunder was justified and in order ? If not, to what relief is he entitled ?

By order No. ID/FD/186-78/47990, dated 23rd October, 1978 the Governor of Haryana referred the following dispute :—

Whether the termination of service of Shri Ishwari Parshad was justified and in order ? If not, to what relief is he entitled ?

By order No. ID/FD/179-78/48047, dated 23rd October, 1978, the Governor of Haryana referred the following disputes :—

Whether the termination of services of Shri Zokaria was justified and in order ? If not, to what relief is he entitled ?

By order No. ID/FD/II/180-78/48053, dated 23rd October, 1978, the Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri Jai Karan was justified and in order ? If not, to what relief is he entitled ?

By order No. ID/FD/II/182-78/48060, dated 23rd October, 1978, the Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri Lal Babu Sharma was justified and in order ? If not, to what relief is he entitled ?

By order No. ID/FD/185-78/48066, dated 23rd October, 1978, the Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri Nand Lal was justified and in

order ? If not, to what relief is he entitled ?

Between the management of M/s. Auto Pins (India) Regd. Plant II, Mathura Road, Faridabad and its workmen S Shri Ram Subhag, Partap Singh, Gian Chand, Shyam Sunder, Ishwari P. had, Zokaria, Jai Karan, Lal Babu Sharma and Nand Lal, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. Reference Nos. 477, 479, 480, 481, 500, 502 to 505, all of 1978 were consolidated for the purpose of recording of evidence, early disposal of the case at the request of the parties because there was involved common question of law and fact. This order was passed by my learned predecessor on 1st March, 1979 and evidence was recorded in reference number 477 of 1978. On the pleadings of the parties following issues were framed on 13th June, 1979 :—

1. Whether the termination of services of the workmen concerned was justified and in order ? If not, to what relief are they entitled ?
2. Whether the plant has been taken over by another management ? If so, to what effect ?

And the case was fixed for the evidence of the management, who examined Shri Deepak, Photographer, Faridabad as MW-1, Shri M. K. Jain, Joint Labour Commissioner, Haryana Chandigarh as MW-2, Shri Dev Nath Ahuja, Personnel Manager as MW-3, Shri Mohinder Pal Singh, Managing Director, Shirocco Pressing (P) Ltd., Faridabad as MW-4, Shri Sant Saran Sharma, Time Keeper, Shirocco Pressing (P) Ltd., Faridabad as MW-5, Shri Som Nath, Head Time Keeper of Plant No. 1 as MW-6 and Shri Shyam Bihari Sharma, their Time Keeper as MW-7 and closed its case. The workman appeared in person. Shri Ram Subhag as WW-1, Shri Lal Babu Sharma as WW-2, Shri Nand Lal as WW-3, Shri Partap Singh as WW-4, Shri Jai Karan as WW-5, Shri Shyam Sunder as WW-6, Shri Gian Chand as WW-7 and Shri Ishwari Parshad as WW-8 and closed their case.

Arguments were heard. Now I give my finding issuewise :—

ISSUE No. 1 :

MW-1 stated that he had taken into photo copies Ex. M-1 to M-52 from Auto Pins factory premises in the year 1978. These photographs were correct pictures. In cross-examination, he stated that the photographs were taken at 6.00 or 7 p.m. He took about 1½ to 2 hours. He had gone there at about 5-12 p.m. The name of his shop was Deepak Studio, Faridabad. He was a partner of the firm. The management had told him that there was a violence due to strike in the factory. Photos were taken from inside the factory. At that time police was at the site. Photos were taken as advised by the management. Shri M. K. Jain, Joint Labour Commissioner stated that he had brought summoned records. A settlement under section 18(I) dated 1st November, 1977 was on the file. It bears the signature of about 500 workmen. These signatures include thumb-marks and initials. It was sent with a letter dated 15th November, 1977 from the management. The copy of settlement was Ex. MW-2/1. Copy of demand notice was Ex. MW-2/2. Copy of comments filed by the management in conciliation proceeding was Ex. MW-2/3. The settlement was in five sheets. Two sheets contain names of persons signing the settlement. The names of other persons appear on back pages of the settlement. His own signatures were on the original copy of Ex. MW-2/4. Copy of notice dated 14th February, 1978 was Ex. MW-2/5. On court question the witness stated that he could not identify signature of executants of settlement because he did not know them personally. Copy was received by the General Secretary of the union. MW-3 stated that he was in employment since 1952. He was appointed as Personnel Officer in 1968. The union of workers was affiliated to AITUC from 1952 to 1968. Afterwards it was affiliated to INTUC. The management had good relations with the union upto 1977. The management had two plants. Demand notice Ex. MW-3/1 was received by the management from Auto Pins workers union. It was for both the plants. Demands were settled,—vide Ex. MW-2/1 and Ex. MW-3/2. Settlement Ex. MW-2/1 and MW-3/1 were implemented and benefits were given to the workers from 1st October, 1977. After implementation of the settlement workers formed a union under CITU in plant II which was situated at a distance of

8 K.M. from plant No. 1. The union of workers in plant No. 2 was formed in November 1977. Whereas in plant No. 1, a CITU union was formed on 3rd January, 1978. A demand notice Ex. MW-2/2 was received for both the plants. He attended conciliation proceedings which were held in Sector-15 for plant No. 1 and in Sector-21 for plant No. 2. Because there were separate Conciliation Officers for the plants. Last meeting took place on 8th February, 1978 and the management filed comments Ex. MW-2/3. In plant No. 1 there were three shifts of workers. The work was normal upto 1978. On 14th February, 1978 at about 7.45 a.m. the workers started collecting at the gates. First hooter sounded at 7.50 for morning shift which started at 8.00 a.m. They started slogans shouting and a gate meeting was held which was addressed by S Shri Zakaria, Gian Chand and Sohan Lal of plant No. 2 and Shri Pritam Lal, Shyam Lal and Fateh Ram of plant No. 1. They told the workers that the management had not considered their demands so some strong steps shall have to be taken against them to get the demands conceded. Siren was blown for the first shift. No workman reported for duty. On the 2nd Siren only 4-5 workers entered the factory gate and at the 3rd none entered. He went out of the factory and told the workers that three Sirens had been blown if they did not come to duty the gate shall be closed. At this about 100 workers came for duty. The assembled workers were again told that in case they wanted to resume duty they may do extra work for 5-10 months which they have lost but they did not pay feed. At about 9.30 a.m., representatives named in the settlement announced decision of strike in plant No. 1. Shri Zakaria announced that they will not go on strike in plant number 2 because the management had already incurred heavy losses in that plant and there was no work in that plant. These workers will have to help the strike in plant number 1 by money force. He immediately reported the matter to Labour Department about the threatened strike. Notice copy Ex. MW-2/5 was placed on a notice board. The strikers remained at the factory gate till the start of 2nd shift and they started picketing workers. Only 10-12 workers came for duty. The same situation remained in the 3rd shift. The management did not refuse entry to any worker. The strikers created obstruction to the workers who wanted to attend their duty. On 15th February, 1978, the strikers remained at the factory gate for the whole day. At about

5.15 p.m. Mr. Avtar Singh, Managing Partner came to the factory when gate meeting of workers was in progress. As soon as Shri Avtar Singh alighted from the car the workers shouted that the Proprietor of the factory had come, catch hold of him and show him the power of workers. Sh. Zakaria, Sh. Sohan Lal and Sh. Gian Chand of plant No. 2 were amongst the leaders. Shri Gian Chand tried to catch hold of Shri Avtar Singh and also tried to inflict a lathi blow on him which blow on Shri Gurkirat Singh, another partner of the management. At that stage stone throwing started and the workers started burning vehicles parked outside the factory. 3 Fiat Cars, 3 Motor Cycles, 2 Scooters, 1 Truck, 1 Tanker and 1 Jeep were burnt. Two of the Fiat Cars were completely burnt while other vehicles suffered partial loss. Two scooters were also completely burnt. Glass pains and asbestos sheets were also damaged. Some of the workers on duty also suffered injuries. Photographs Ex. M-1 to M-52 were taken from the site. S Shri Shyam Lal, Fateh Ram, Firangi, Piare Lal, Ram Jas, Jagdish Parshad, Khanderu Parshad, Ram Subhag, Jai Karan, Partap Singh, Shyam Sunder and Shyam Lal of plant No. 2 were in the fore front of the above incident. There were other workers whose names he did not recollect. He further stated that the workers were chargesheeted,—vide Ex. MW-3/4 to MW-3/12. Replies of workers were Ex. MW-3/13 to Ex. MW-3/21. The workers were discharged,—vide Ex. MW-3/22 to Ex. MW-3/30. Ex. MW-3/31 to Ex. MW-3/34 were A.D. receipts. While Ex. MW-3/35 to Ex. MW-3/39 were registered cover received back undelivered. The previous record of some of the workers was Ex. MW-3/40 to MW-3/45. Copy of Standing Orders was Ex. MW-3/46. In cross-examination he stated that the strength of workers of both the plants were about 900. The demand notice was received in the month of September, 1977. Three-four meetings for negotiations were held. Settlement Ex. MW-2/1 and Ex. MW-3/2 were reached on 1st November, 1977. The settlements were signed by the workers present on duty on that date. The signatures were made in his presence. It might have taken whole day by the workers in making signatures. The workmen signed in groups. Ex. MW-2/2 was received in January 1978. There was negotiations because the settlement already existed. He accepted it as correct that there was lay off in plant number 2 in January, 1978. But the same was not on account of power shortage. He also admitted that on 14th February, 1978 there were

about 125 workers on duty. The police arrested above mentioned workmen on 15th February, 1978. He did not know when they were bailed out. He admitted that he was present at the factory gate on 14th February, 1978 and 15th February, 1978, throughout the day and night. On 14th February, 1978 there were about 400-500 workers and on 15th February, 1978, there were about 250 workers in the evening. He denied the suggestion that names of workers given in the evening. He denied the suggestion that names of workers given in the statement were due to their union activities. In plant number 1 new recruitment was made in place of workers who were discharged. MW-4 stated that there were two units of Auto Pins. He used to supervise as partner of plant number 2. In Plant No. 2, mainly contract work for defence vehicles was done. Monthly production was of 200 cabins in addition to some other items. Copies of defence orders were Ex. MW-4/1 to Ex. MW-4/6. In the month of November and December, 1977, the plant was working at full capacity. The order for cabins had almost completed and a few cabins were supplied in the month of January and February. There was little work in February. In Plant No. 1 leaf springs and pins were manufactured. There was no dearth of work in plant number 1. He used to go in plant number 1. On 15th February, 1978, when he went to plant number 1 he found an assembly of workers shouting slogans. Then he narrated the story given by MW-3. He further stated that there being no work in plant number 2, they wanted to transfer some workers from plant number 2 to plant number 1. Shri Zakaria gave a letter copy Ex. M 4/7 and the management stopped transfer. A letter from Shri Babu Lal. Copy Ex. MW-4/8 was caught by the management. Extract from the supply made to the defence authorities was Ex. MW-4/9 and Ex. MW-6/10. In cross examination he stated that settlement Ex. MW-3/2 was not arrived at in his presence. He did not know as to how many workmen supported the demand notice Ex. MW-2/2. There was no incident in plant number 2 on 15th February, 1978. Shri Gian Chand was active member of the union. MW-5 stated that he had brought attendance register for the month of February, 1978. Ex. MW-5/1 was extract from the attendance register. In cross-examination he stated that on 15th February, 1978, Shri Gian Chand was absent. He was laid off on that day. Shri Desh Raj and Shri Sohan Lal were under suspension. Shri Zakaria,

Shri Ishwari Parshad, Lal Babu Sharma and Shri Ram Subhag were also laid-off. MW-6 stated that he was working in February in plant number 1. His office was at the factory gate. On 14th February, 1978, when he went to the factory he found that no workers were entering the factory. He reported the matter to the Personnel Manager. He then narrated the story of 14th February, 1978 and 15th February, 1978, as given by MW-3. In cross-examination he stated that all the concerned workmen belong to plant number 2. Ex. MW-6/1 pertain to plant number 1. The meeting was being held outside the gate. Shri Gian Chand, having the flag in his hand was addressing the meeting. He saw the workers setting fire to vehicles. Three Fiat cars, one tanker, one truck, two jeeps, one motor cycle were burnt. It all happened within the radius of 100 feet. MW-7 stated that he knew all the concerned workmen. There was a strike in the factory, on 14th February, 1978. On 15th February, 1978, he saw a meeting of workers which was addressed by S/Shri Babu Lal, Gian Chand and Shyam Lal. They instigated the workers. Shri Avtar Singh, Managing Director was attacked. Vehicles were burnt. He saw S/Shri Jai Karan, Ishwari Parshad, Lal Babu Sharma and Ram Subhag, having lathis in their hands and indulging in stone throwing. Shri Lal Babu Sharma and Shri Ishwari Parshad were setting the vehicles on fire.

WW-1 stated that he was in service of plant number 2. There was union of workers. On 11th January, 1978, a demand notice was given to the management. Negotiations was held but there was no settlement. On 14th February, 1978, there was a meeting at the gate of plant number 1. The management closed the factory gate. They had asked them to sign on a plain paper and then join duty. There was a quarrel on 15th February, 1978 at the gate of plant number 1. About 183 workers and some gundas were arrested. When they went for duty on 18th February, 1978, they were handed over chargesheets which were replied. No enquiry was held. About 500 workmen were terminated. In cross-examination he stated that on 14th February, 1978, all the concerned workmen were present. He was not present on 15th February, 1978 at the time of incident. It came to his notice at 8.00 p.m. He admitted that he was under lay-off with nine others. He also admitted that he used to go for attendance at 2.00 p.m. He did not know who had addressed the meeting. He



denied that S. Shri Shyam Lal and Sohan Lal had instigated the workers for strike. He admitted that in case he had signed the plain paper he could have joined duty. In plant number 1, 200 out of 500 workers had joined their duty. He did not know why others did not join duty. He admitted that when he reached the factory gate he found cars etc. burning. He admitted signature of Shri Lal Babu Sharma on Ex. MW-4/8. The incident of 14th February, 1978 went on for 2-3 months. He did not know if Shri Avtar Singh was proprietor of M/s. Auto Pins and he was President of Industries Association. He admitted his address on Ex. MW-3/39 as correct. WW-2 stated that the name of their union was Auto Pins Employees Union. Copy of constitution was Ex. W-1. The union had submitted demand notice on 11th January, 1978, copy of which was Ex. W-2. No settlement was reached despite conciliation meeting. Ex. W-3 was conciliation report. There was no union on 1st November, 1977. He denied settlement Ex. MW-2/1 and MW-3/2. He denied his signatures on Ex. MW-4/8. He was laid-off on 14th February, 1978. He used to go to plant number 2 for marking attendance. He saw at the gate of plant number 1 that workers were sitting outside the gate. The workers were requesting the management to get the gate opened. The management had asked them to sign blank paper. On 15th February, 1978, he learnt that there was some incident at plant number 1. When he went there he found that police was there and some vehicles were on fire. He also knew that some workers were arrested. He was also arrested from factory. He was dismissed on 23rd June, 1978 without holding domestic enquiry. In cross-examination he stated that conciliation meetings were held. He admitted that he used to work in plant number 2 and the management had transferred body section in plant number 2. He was also transferred later on. He admitted that the work had fallen in January, 1978 and there was lay-off. All the workmen used to go for attendance at 2.00 p.m. He admitted his writing and signature on Ex. M-X. He denied that Auto Pins Workers Union registered was not their union. He did not remember if there was increase of Rs. 10 in wages from 1st October, 1977. He admitted that on 15th February, 1978 he had gone to plant number 1 but did not remember the time. He had seen burnt motor vehicles and scattered stones on road. He did not know if Shri Avtar Singh was President of Industries Association. He denied his involvement in the incident at the factory gate on 15th February, 1978. In cross-examination WW-3 stated that he

did not go to the factory gate at the time of incident. He had only heard that there was a quarrel between the workers and some gundas. He had not seen anything personally. WW-4 stated that he was wrongly dismissed from service. In cross-examination, he admitted that he was given chargesheet. WW-5 stated that he was not involved in any assault, nor in any quarrel. His services were terminated wrongly. In cross-examination he denied having gone to the factory gate on 14th February, 1978 and 15th February, 1978. WW-6 stated that he had not gone on strike on 15th February, 1978. His services were terminated on 23rd June, 1978 without any enquiry. In cross-examination he stated that he was not office holder of the union. He admitted that on 15th February, 1978, he had gone to the factory but was on lay-off. WW-7 stated that on 15th February, 1978, his duty was in plant number 2. After his duty he went to his village by train. The chargesheet given to him was false. He was arrested from duty. He was not a leader of the union. He had given in writing to the management that he was not present at the time of incident. In cross-examination he stated that on 15th February, 1978, there was lay-off in the factory and he did not do any work. He remained present at the factory gate from 9.00 to 1.00 p.m. His attendance was marked at 1.00 p.m. He had heard about the incident in the train. WW-8 stated that he was given chargesheet Ex. MW-3/7. He denied that he was involved in incident of 15th February, 1978. In cross-examination, he admitted that he was involved in the case which was being tried by the Magistrate about the incident of plant number 1. He did not know the incident of 14th February, 1978. He had only heard about it.

The learned representative for the management argued that the workmen were charge-sheeted for a number of misconducts including instigation for illegal strike, riotous and disorderly behaviour, violence, damage to property, putting vehicles on fire, wilfully obstructing others to work, attacking Managing Director of the management and acts subversive of discipline. He further argued that a settlement was in force and the workmen had raised another demand notice in violation to the clause of the settlement. They instigated other workers for illegal strike, brought the work of the factory to a standstill, indulged in stone throwing, putting on fire management vehicles damage factory building and other property and attack the Managing Director. He further argued that the atmosphere was such that domestic enquiry



could not be held in that atmosphere. He argued that the management had established the case by leading evidence. On the other hand the learned representative for the workmen argued that the binding nature of the settlement was to be seen only by the adjudicating authority. It was not for the management to see. He also argued that the management did not hold any domestic enquiry, nor paid any retrenchment compensation. He also stated that instigation was no offence and the concerned workmen belong to the other plant. In reply the learned representative for the management cited 1973 I LLJ page 278 Fire Stone case and contended that a defective enquiry was equal to no enquiry, therefore, evidence produced by the management be gone into for establishing their case.

I have gone through settlements Ex. MW-21 and Ex. MW-32 and find that settlements are under section 18(I) of the I.D. Act. In the recital it is mentioned that the workmen through their union Auto Pins Workers Union registered had submitted a demand notice on dated 10th September, 1977. It was signed by about 500 workmen as stated by Shri M. K. Jain, Joint Labour Commissioner, Haryana, Chandigarh MW-2. According to the terms of the settlement the workers were given 16% bonus, D.A., an adhoc increase of Rs. 10 P.M., gur allowance to some categories. The date of the settlement is dated 1st November, 1977 and according to the last clause it was argued between the parties that the settlement will be binding for the next year and no demand which may cause financial burden will be raised during the period except that of bonus. I need not say that settlements were binding on the parties under section 18(I) of the I.D. Act. In January, 1978, demand notice Ex. MW-2'2 was given by the Auto Pins Employees Union (CITU) in which financial demands were raised. Negotiations were held and the management filed their comments. It seems that to press their demands the workmen held meeting on 14th February, 1978 and remained away from their duty. There is no notice for going on strike. When they had failed to join duty and raised slogans at the factory gate the management was justified in taking some sort of undertaking that the workmen will remain under discipline. I have seen the photographs Ex. MW-1'1 to Ex. MW-1'52 and find that cars, scooters, motor cycles, truck and other property is shown as burnt or damaged.

The Management witnesses No. 3 to 7, have named the concerned workmen to be involved in the incidents of 14th February, 1978 and 15th February, 1978. I have gone through the explanations of the workmen Ex. MW-3 13 to MW-3'21. In the identical explanations the workmen stated that the charges were quite wrong, therefore, the same may be filed. Whereas chargesheets given narration of the incident giving date, time and place of the involvement of the workmen. In the witness box also the workmen could not explain as to how the vehicles were burnt and damaged caused to the management property. They also failed to explain the cause of arrest in criminal case for their involvement in that incident. I, therefore, find that the management has proved the misconduct of the concerned workmen. The charges of misconduct as given in clause 21 of the Standing Orders Ex. MW-3'46 entail punishment of dismissal. I, therefore, decide this issue in favour of the management.

#### ISSUE No. 2 :

In view of finding on issue No. 1 this issue has no bearing on the case.

While answering the reference, I give my award that the termination of services of the workmen concerned was justified and in order. The workmen are not entitled to any relief. I order accordingly.

Dated the 28th October, 1981.

M. C. BHARDWAJ,

Presiding Officer, Industrial  
Tribunal, Haryana, Faridabad.

No. 991, dated 2nd November, 1981.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer, Industrial  
Tribunal, Haryana, Faridabad.